



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

June 5, 2003

Ms. Tamara Pitts  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2003-3859

Dear Ms. Pitts:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 182347.

The City of Fort Worth (the "city") received a request for information relating to a particular charge of discrimination filed with the city's Human Relations Commission (the "HRC"). You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information that other statutes make confidential. You inform us that the HRC was created pursuant to chapter 21 of the Labor Code. *See* Labor Code § 21.152 (providing for the creation of local commissions). We conclude that the HRC is a local agency authorized by sections 21.152 *et. seq.* of the Labor Code to investigate complaints, as provided by section 21.204 of the Labor Code. Section 21.204 relates to investigations by the Commission on Human Rights.

Section 21.304 of the Labor Code provides:

An officer or employee of the [HRC] may not disclose to the public information obtained by the [HRC] under Section 21.204 except as necessary to the conduct of a proceeding under this chapter.

Section 21.305 of the Labor Code concerns the release of records of the HRC to a party to a complaint filed under section 21.201. Section 327.9 of title 40 of the Texas Administrative

Code also governs a party's access to the HRC's records. Section 327.10 of title 40 further provides limitations on the public's access to HRC records.<sup>1</sup>

The submitted information relates to HRC Charge No. 31AA2218 and EEOC Charge No. 31AA200218. You inform us that the HRC compiled and maintains this information under chapter 21 of the Labor Code. You do not inform us that the requestor is representing a party to the proceeding at issue. We therefore conclude that the submitted information is confidential under section 21.304 of the Labor Code and must be withheld from the requestor under section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one

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<sup>1</sup> Section 327.10 provides as follows:

(a) No officer or employee of the commission may make public any information obtained by the commission under its authority under the Texas Labor Code, §§ 21.201-21.207, except as necessary to the conduct of a proceeding under this Act.

(b) No commissioner or employee of the commission may make public, without the written consent of the complainant and respondent, information about the efforts in a particular case to resolve an alleged discriminatory practice by conference, alternative dispute resolution, conciliation, or persuasion, whether or not there is a determination of reasonable cause.

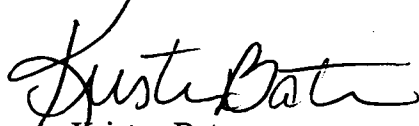
of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kristen Bates  
Assistant Attorney General  
Open Records Division

KAB/lmt

Ref: ID# 182347

Enc. Submitted documents

c: Ms. Heather M. MacKenzie  
Hunton & Williams  
1601 Bryan Street, 30<sup>th</sup> Floor  
Dallas, Texas 75201-3402  
(w/o enclosures)